

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

11

DECISION

TOPIC

Final Rule - Chapter 22 (Air Construction Permitting Exemption)

The Department is requesting that the Commission approve an amendment to Chapter 22 "Controlling Pollution" of the 567 Iowa Administrative Code. The purpose of this amendment is to list additional equipment for which no construction permit is required because of low emissions of regulated air pollutants.

Between July 2006 and September 2006, the department and representatives from the Iowa-Nebraska Equipment Dealers Association, Ziegler Cat, Cessford Construction, the Iowa Limestone Producers Association, equipment manufacturers such as John Deere & Company and Vermeer Manufacturing, and the University of Northern Iowa Air Emissions Assistance Program met three times to discuss permitting considerations related to emissions from agricultural equipment and construction equipment repair facilities and dealerships. When agricultural and construction equipment with internal combustion engines is operated on or off road, it is not required to be permitted. When this equipment is serviced at a repair facility or dealership, the emissions from the equipment when operated inside the facility are frequently vented through a vent or stack. These facilities are considered stationary sources by definition, and the Department has the authority through the construction permitting process to regulate the emissions from the facilities.

The Department has historically not sought construction permit applications for emission points at agricultural and construction equipment repair facilities and dealerships that are only exhausting emissions from mobile internal combustion engines. The Department reviewed the technical validity of exempting emissions from agricultural and construction equipment mobile internal combustion engines at repair facilities and dealerships from the requirement to obtain a construction permit. Based on emissions and operating information obtained from the workgroup, the Department is proposing that emissions from agricultural and construction equipment mobile internal combustion engines at non-major repair facilities and dealerships be exempted from the requirement to obtain a construction permit. This amendment is expected to have little or no environmental or human health consequences.

A public hearing was held on March 5, 2007. No comments were presented at the hearing. One written comment was received prior to the close of the public comment period. The submitted comment and the Department's response to the comment are summarized in the attached responsiveness summary. No changes were made to the proposed amendment published in the Notice of Intended Action.

An administrative rules fiscal impact statement is attached.

Jim McGraw, Environmental Program Supervisor
Program Development Section, Air Quality Bureau
Environmental Services Division
Memo date: April 9, 2007

ENVIRONMENTAL PROTECTION COMMISSION [567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 22, “Controlling Pollution,” of 567 Iowa Administrative Code.

The purpose of the amendment is to list additional equipment for which no construction permit is required because of low emissions of regulated air pollutants.

The Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on January 31, 2007, as ARC 5694B. A public hearing was held on March 5, 2007. No comments were presented at the hearing. One written comment was received prior to the close of the public comment period. The public comment period closed on March 9, 2007.

The submitted comment and the Department’s response to the comment are summarized in a responsiveness summary available from the Department. No changes were made to the proposed amendment published in the Notice of Intended Action.

Between July 2006 and September 2006, the department and representatives from the Iowa-Nebraska Equipment Dealers Association, Ziegler Cat, Cessford Construction, the Iowa Limestone Producers Association, equipment manufacturers such as John Deere & Company and Vermeer Manufacturing, and the University of Northern Iowa Air Emissions Assistance Program met three times to discuss permitting considerations related to emissions from agricultural equipment and construction equipment repair facilities and dealerships. When agricultural and construction equipment with internal combustion engines is operated on or off road, it is not required to be permitted. When this equipment is serviced at a repair facility or dealership, the emissions from the equipment when operated inside the facility are frequently vented through a

vent or stack. These facilities are considered stationary sources by definition, and the Department has the authority through the construction permitting process to regulate the emissions from the facilities.

The Department has historically not sought construction permit applications for emission points at agricultural and construction equipment repair facilities and dealerships that are only exhausting emissions from mobile internal combustion engines. The Department reviewed the technical validity of exempting emissions from agricultural and construction equipment mobile internal combustion engines at repair facilities and dealerships from the requirement to obtain a construction permit. Based on emissions and operating information obtained from the workgroup, the Department is proposing that emissions from agricultural and construction equipment mobile internal combustion engines at non-major repair facilities and dealerships be exempted from the requirement to obtain a construction permit. This amendment is expected to have little or no environmental or human health consequences.

All construction permitting exemptions apply only to the requirement to obtain an air construction permit. The owner or operator of a facility retains the obligation to determine whether other air quality requirements apply to exempted equipment or processes, and if such obligations exist, to meet those.

The amendment to subrule 22.1(2) adds a new paragraph “nn” that exempts emissions from agricultural and construction mobile internal combustion engines that are operated for repair or maintenance purposes at equipment repair shops and equipment dealerships that are not major sources as defined in rule 22.100(455B).

This amendment is intended to implement Iowa Code section 455B.133. This amendment will become effective on June 27, 2007.

The following amendment is adopted.

Amend subrule 22.1(2) by adopting a **new** paragraph “nn”:

nn. Emissions from mobile agricultural and construction internal combustion engines that are operated only for repair or maintenance purposes at equipment repair shops or equipment dealerships, and only when the repair shops or equipment dealerships are not major sources as defined in rule 567—22.100(455B).

Date

Richard A. Leopold, Director

Administrative Rule Fiscal Impact Statement

Date: November 8, 2006

Agency: Natural Resources

IAC Citation: 567 IAC Chapter 22.1(2)

Rules Contact: Anne Preziosi

Summary of the Rule: The purpose of this rulemaking is to exempt emissions from agricultural and construction mobile internal combustion engines that are operated for repair or maintenance purposes at non-major equipment repair shops and equipment dealerships. This rulemaking is a result of a workgroup comprised of Iowa Nebraska Equipment Dealer's Association, Ziegler Cat, Cessford Construction, the Iowa Limestone Producers Association, equipment manufacturers such as John Deere Company and Vermeer Manufacturing, and the University of Northern Iowa Air Emissions Assistance Program.

Fill in this box if the impact meets these criteria:

- ☒ No Fiscal Impact to the State.
☐ Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.
☐ Fiscal Impact cannot be determined.

Brief Explanation:

There will be no change in state revenues or expenditures as a result of this rule.

Fill in the form below if the impact does not fit the criteria above:

- ☐ Fiscal Impact of \$100,000 annually or \$500,000 over 5 years.

* Fill in the rest of the Fiscal Impact Statement form.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY)</u>	<u>Year 2 (FY)</u>
Revenue by Each Source:		
GENERAL FUND		
FEDERAL FUNDS		
Other (specify)		
	_____	_____
TOTAL REVENUE		
Expenditures:		
GENERAL FUND		
FEDERAL FUNDS		
Other (specify)		
	_____	_____
TOTAL EXPENDITURES		
NET IMPACT		

☐ This rule is required by State law or Federal mandate.
Please identify the state or federal law:

☐ Funding has been provided for the rule change.
Please identify the amount provided and the funding source:

☒ Funding has not been provided for the rule.
Please explain how the agency will pay for the rule change:
The State does not currently charge air construction permit fees. As no fees are collected, the reduction of construction permit applications and modifications will not cause a financial impact to the State. The agency will not need additional revenue to implement this rule.

Fiscal impact to persons affected by the rule:

The proposed rule will allow some businesses to be exempt from the requirements to obtain air construction permits for new minor activities. The exemptions will reduce the recordkeeping time and paperwork burden for business for specific equipment that have little or no environmental impact or human health consequences.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

No impact.

* If additional explanation is needed, please attach extra pages.

Agency Representative preparing estimate: Jim McGraw
Telephone Number: 515-242-5167

**PUBLIC PARTICIPATION RESPONSIVENESS SUMMARY
FOR
567 Iowa Administrative Code Chapter 22 “Controlling Pollution”**

Introduction

The Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on January 31, 2007, as ARC 5694B. A public hearing was held on March 5, 2007. No comments were received at the public hearing. One written comment was submitted prior to the start of the public comment period. No other written comments were submitted prior to the close of the public comment period. The public comment period closed on March 9, 2007. The Department’s response to the comment is summarized below.

Public Comment

The comment was submitted via email by Ziegler Cat and pertained to the type of equipment being specified in the proposed exemption. Specifically, Ziegler Cat commented that engine emissions from over-the-road trucks at non-major equipment repair facilities and dealerships should be included in the exemption. They also commented that emissions from the over-the-road truck internal combustion engines are far less than mobile agricultural or construction equipment internal combustion engine emissions. A follow-up phone call with Ziegler Cat identified operating data submitted to the Department from the Cedar Rapids Truck Center, Inc. and included in the technical justification completed for the rulemaking, as the basis for this statement.

Department Response

Review of data used in the development of the technical justification and records of discussions with the workgroup members indicates that emissions from over-the-road truck engines were considered in the data collected by the workgroup and in the engine size range (400-750 hp) used to calculate emissions for the technical justification. The Department concurs that these emissions should be included in the exemption.

Recommended Action

The Department believes that modifying the proposed amendment to add emissions from internal combustion engines of over-the-road trucks at non-major repair facilities and dealerships to the exemption would require that the proposed amendment be noticed a second time for public comment. Noticing the proposed amendment for a second time would delay final adoption and implementation of a proposed amendment that is otherwise acceptable to the workgroup and received no comment from the general public. The Department will therefore incorporate the change requested by Ziegler Cat into the next general rulemaking. This approach will allow the proposed amendment to be adopted with no further delays and the change requested by Ziegler Cat to be published for public comment in a future rulemaking.